



North Carolina General Assembly House of Representatives

REPRESENTATIVE NATHAN A. BASKERVILLE
32 DISTRICT

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BUSINESS AND LABOR

June 13, 2014

Regional Freedom of Information Officer
U.S. EPA, Region 4
AFC Bldg, 61 Forsyth Street., S.W., 9th Flr (4PM/IF)
Atlanta, GA 30303-8960
(404) 562-8676

National Freedom of Information Officer
U.S. Environmental Protection Agency
1200 Pennsylvania Avenue, NW (2822T)
Washington, DC 20460
(202) 566-1667

Re: Freedom of Information Act Request

Dear Freedom of Information Officer:

Pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 553, I, Nathan Baskerville submit this request for all correspondence and comments written or received by, or in the possession of, the Environmental Protection Agency (EPA) concerning information on water quality testing from Kerr Reservoir, reported to have begun in early April, 2014 in response to the Eden coal ash spill on February 2nd, 2014. I request these data through the present date, along with data found prior to the incident, should they exist. I specifically request comprehensive documentation of sediment testing from EPA Region 4 Science and Ecosystem Support Division (SESP) and EPA Regions 3 and 4 Superfund Technical Assessment and Response Team (START) Contractor. Additionally, I request information provided by Duke Energy Carolinas, LLC ("Duke Energy") to the EPA, including proposed comprehensive removal site assessments with determination of the extent of residual coal ash contamination in Kerr Reservoir, as well as weekly progress reports of work and findings in Kerr Reservoir.

FOIA directs a responding agency to make a "determination" on any request within twenty working days of receipt. 5 U.S.C. & 552(a)(6)(A). Because of the time-sensitive nature of our request, we specifically request that you comply with the statutory deadline. Should my request be denied, I ask



that you inform me of the grounds for denial and the specific administrative appeal rights that are available. *Id.*

Please note that we request access to each version of a record or document, whether it is a draft, has been electronically deleted, has attachments, bears annotations, etc. In the event an exemption is claimed for any of the records requested herein, in whole or in part, I ask that you please identify the exemption under which such records are being withheld, as well as the amount of information being withheld. *See* 5 U.S.C. § 552(a)(6)(F)&(b). I note that when FOIA provides an exemption for a portion of a record that is not exempt in its entirety, any segregable portion of the record must be provided after exempted information is deleted. 5 U.S.C. § 552(b).

I request that you waive any search and duplication fees and provide the requested records without charge, or at a reduced charge, pursuant to 5 U.S.C. § 552(a)(4)(A)(iii). The disclosure of the requested materials would be in the public interest because it is likely to contribute significantly to public understanding of FHWA's activities and is not in my commercial interest. Courts have recognized that Congress intended FOIA's fee waiver provision to be "liberally construed in favor of waivers for noncommercial requesters." *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1284 (9th Cir. 1987). As a member of the North Carolina House of Representatives, representing District 32, I work to protect my constituents and, specifically, to gather, analyze, and disseminate public information about major public infrastructure projects, and their impacts on wetlands, wildlife, water quality, and other resources in North Carolina. Should my request for reduced or waived fees be denied, I am prepared to bear the reasonable costs necessary to fulfill this request, although I request that you contact me before processing this request to discuss fees. I reserve my right to appeal a denial of my request for a fee waiver or reduction.

If you have any questions, please do not hesitate to contact me. Thank you for your prompt attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Nathan Baskerville', with a stylized, cursive script.

The Honorable Nathan Baskerville
N.C. House District 32